

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JOHN GORDON,

Petitioner,

Case Number: 92-81127-33

v.

HONORABLE AVERN COHN

UNITED STATES OF AMERICA,

Respondent.

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**ORDER**

In 1995, Petitioner John Gordon (Petitioner) was convicted by a jury on various drug and continuing criminal enterprise charges. He was sentenced in 1996 to two concurrent terms of life imprisonment. The Court of Appeals for the Sixth Circuit affirmed his conviction and sentence on direct appeal. United States v. Polk, et al., Nos. 96-1492/1512/1533/1534/1710, 1999 WL 397922 (6<sup>th</sup> Cir. June 2, 1999) (unpublished). The Supreme Court denied certiorari. United States v. Gordon, No. 99-6910.

Thereafter, Petitioner filed a motion to vacate his sentence under 28 U.S.C. § 2255 claiming that he was deprived of his Sixth Amendment right to effective assistance of counsel. The Court denied the motion. See Order filed February 1, 2001. The Court denied a certificate of appealability. See Order filed March 27, 2001. The Sixth Circuit also denied a certificate of appealability. See Order in 01-1503, filed December 19, 2001. Rehearing was denied on March 21, 2002. The Supreme Court again denied certiorari.

Thereafter, Petitioner filed several motions in which he sought to again challenge his conviction. The Court subsequently construed one of Petitioner's motions as a successive petition under § 2255 and transferred the matter to the Court of Appeals for the Sixth Circuit. That case remains pending in which the Sixth Circuit will decide if the Court erred in treating the motion as a successive petition under § 2255. Gordon v. USA, 05-1695.<sup>1</sup>

Before the Court is Petitioner's motion for "Independent Action for Fraud on the Court." Petitioner appears to request that the Court reopen his initial § 2255 proceedings because of alleged fraud by the government. Putting aside whether the motion is procedurally proper in light of Petitioner's appeal or otherwise, the motion is DENIED for lack of merit.

s/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: October 14, 2005

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, October 14, 2005, by electronic and/or ordinary mail.

s/Julie Owens  
Case Manager  
(313) 234-5160

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<sup>1</sup>Petitioner also apparently has two other appeals in the Sixth Circuit from various orders of the Court.